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SEA

SERVICE DATE – MAY 16, 2006

**SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423**

ENVIRONMENTAL ASSESSMENT

STB DOCKET NO. AB-55 (Sub-No. 667X)

**CSX Transportation, Inc. – Abandonment
Exemption – in Harlan County, KY**

BACKGROUND

In this proceeding, CSX Transportation, Inc. (CSXT) filed a notice of exemption under 49 CFR 1152.50 seeking exemption from the requirements of 49 U.S.C. 10903 in connection with the abandonment of a line of railroad in Harlan County, Kentucky. The abandonment extends approximately 12.56 miles on its Southern Region, covering a portion of the Clover Fork Branch, between milepost OWH 258.5 to milepost OWH 271.06. The abandonment traverses Zip Codes 40828, 40843, and 40927. If the notice becomes effective, the railroad will be able to salvage track, ties and other railroad appurtenances and dispose of the right-of-way.

DESCRIPTION OF RAIL LINE

CSXT indicates that the line was incorporated in March 1850 and purchased by the Louisville and Nashville Railroad Company (L&N) between 1918 and 1946. In 1972, L&N and the Seaboard Coast Line Railroad became known jointly as the Family Lines. The railroad states that in 1980, Seaboard Coast Line Industries, Inc. (formed in 1969) and Chessie System merged to become CSX Corporation. In 1983, the Family Lines' affiliates merged, establishing the Seaboard System Railroad, Inc., which became CSXT in 1986.

CSXT has submitted topographic maps that indicate that the proposed line to be abandoned commences near the town of Louellen and progresses eastward through the mountainous and forested terrain of Pennington Gap until finally reaching its terminus near Morris Gap. The line segment closely parallels and intercepts portions of the Clover Fork River and other smaller tributaries, as well as associated wetlands and 100-year floodplain. CSXT states that the width of the right-of-way of the rail line varies from 30 feet to 100 feet and that there are six CSXT-owned bridges (Bridge Numbers 10 through 15) 50 years or older that may be eligible for listing in the National Register of Historic Places (National Register). CSXT indicates that the bridges were constructed between 1919 and 1946 and traverse Clover Fork River, Fugate Creek, Bear Branch, and Breeding Creek. Structurally, five of the bridges (Bridge Numbers 10, 11, 13, 14, and 15) utilized steel deck plate girder engineering, while Bridge 12 consists of steel deck beam construction. The bridges range from 17 feet to 160 feet in length. The railroad indicates that both CSXT and its predecessor made structural changes to the bridges to facilitate safe and efficient railroad operations, but that the precise dates are not known.

ENVIRONMENTAL REVIEW

CSXT submitted an environmental report that concludes the quality of the human environment will not be affected significantly as a result of the abandonment or any post-abandonment activities, including salvage and disposition of the right-of-way. CSXT served the environmental report on a number of appropriate Federal, state, and local agencies as required by the Surface Transportation Board's (Board) environmental rules [49 CFR 1105.7(b)].¹ The Board's Section of Environmental Analysis (SEA) has reviewed and investigated the record in this proceeding. Based on information in the railroad's possession, the line does not contain any Federally granted rights-of-way. A map depicting the rail line in relationship to the area served is appended to this Environmental Assessment.

Diversion of Traffic

According to CSXT, no local traffic has moved over the line for at least two years and no overhead traffic would be rerouted as a result of the abandonment. Accordingly, the proposed abandonment would not adversely impact the development, use and transportation of energy resources or recyclable commodities; transportation of ozone-depleting materials; or result in the diversion of rail traffic to truck traffic that could cause significant impacts to air quality or the local transportation network.

Salvage Activities

Impacts from salvage and disposal of a rail line typically include removal of tracks and ties, removal of ballast, dismantling of any bridges or other structures that may be present on the rail right-of-way, and regrading of the right-of-way. Salvage may be performed within the right-of-way, or, if necessary, via construction of new access points to the right-of-way. If the notice becomes effective and in the absence of any reversionary interests that may affect the transfer of title for other rail, the former coal line may be suitable for other purposes. Otherwise, CSXT states that it intends to salvage track, ties, and other railroad appurtenances, and dispose of the right-of-way. Further, CSXT has indicated that it would not disturb any sub-grade or sub-grade structures.

The Natural Resources Conservation Service (NRCS) commented that the proposed abandonment would not impact prime or unique farmland, or farmland of statewide significance and associated wetlands. However, NRCS noted that disturbed areas would need to be seeded and mulched immediately after work is completed to reduce the potential for erosion. Since this issue is typically addressed in the Construction General Stormwater Permit issued by the U.S. Environmental Protection Agency (USEPA), SEA will recommend a condition requiring that CSXT consult with USEPA prior to commencement of salvage activities to assess possible impacts associated with erosion and sediment control.

¹ The railroad's environmental and historic reports are available for viewing on the Board's website at www.stb.dot.gov by going to "E-Library," selecting "Filings," and then conducting a search for AB-55 (Sub-No. 667X).

The U.S. Army Corps of Engineers commented that the proposed action does not require any permits under Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act.

CSXT indicates that in February 1987, a hazardous material spill occurred near Glenbrook, KY (milepost 266.6). The incident, initiated by a rock slide, caused approximately 500 gallons of diesel fuel to leak over a twenty-five mile segment of track. The railroad indicates that an environmental cleanup was not feasible, but has not provided any further information. Additionally, the U.S. Environmental Protection Agency (USEPA) has not commented on the proposed abandonment. Based on the limited information available to date, and the possibility that the soil and/or groundwater could be contaminated, SEA is recommending a condition that CSXT consult with USEPA regarding potential contamination prior to initiating the abandonment process.

The National Geodetic Survey (NGS) has identified 13 geodetic markers that may be affected by the proposed abandonment. If there are any planned activities which will disturb or destroy these markers, CSXT is required to notify NGS 90 days prior to the onset of salvage activities in order to plan for their possible relocation. SEA is therefore recommending a condition requiring CSXT to coordinate with NGS prior to consummation of the abandonment.

Harlan County does not lie within a designated coastal zone, therefore coastal zone consistency is not required.

SEA believes that any air emissions associated with salvage operations would be temporary and would not have a significant impact on air quality. Noise associated with salvage activities would also be temporary and should not have a significant impact on the area surrounding the proposed abandonment.

CSXT has served the environmental report on a number of other appropriate Federal, state and local agencies; however, to date, none have responded. Based on the limited information available, SEA cannot fully determine if salvage activities would cause significant environmental impacts on the area surrounding the proposed abandonment. Therefore, SEA is providing a copy of this EA to the following agencies for review and comment: U.S. Fish and Wildlife Service; USEPA; and the National Park Service. Copies of the EA will also be provided to appropriate local and state agencies. Additionally, SEA will recommend conditions requiring CSXT to consult with the above referenced agencies, as necessary, prior to commencement of any salvage activities.

HISTORIC REVIEW

CSXT submitted an historic report as required by the Board's environmental rules [49 CFR 1105.8(a)] and served the report on the Kentucky Heritage Council (State Historic Preservation Officer or SHPO) pursuant to 49 CFR 1105.8(c). The SHPO has not yet submitted comments in response to the historic report. Consequently, SEA recommends a condition be imposed that CSXT shall retain its interest in and take no further steps to alter the historic integrity of all sites and structures on the right-of-way that are eligible for listing or listed in the National Register of Historic Places until completion of the Section 106 process of the National Historic Preservation Act, 16 U.S.C. § 470.

In the event that any archaeological sites, human remains, funerary items or associated artifacts are discovered during the CSXT's salvage activities, CSXT shall immediately cease all work and notify SEA, interested Federally recognized tribes, and the SHPO. SEA shall then consult with the SHPO, interested Federally recognized tribes, and CSXT to determine whether any mitigation measures are necessary.

SEA conducted a search of the National Park Service's Native American Consultation Database at <http://www.cast.uark.edu/other/nps/nacd/> to identify Federally recognized tribes that may have an interest in the project. The data base indicated that the Delaware Nation, the Eastern Band of Cherokee Indians, the Miami Tribe of Oklahoma, and the Peoria Tribe of Indians of Oklahoma may have an interest in the proposed abandonment. Consequently, SEA will ensure that the tribes receive a copy of this EA for their review and comment.

CONDITIONS

We recommend that the following conditions be placed on any decision granting abandonment authority:

1. CSX Transportation (CSXT) shall notify the National Geodetic Survey (NGS) at least 90 days prior to beginning salvage activities in order to plan for the possible relocation of the geodetic station markers by NGS.
2. Prior to commencement of any salvage activities, CSXT shall consult with the U.S. Environmental Protection Agency to ensure that any concerns regarding potential contamination of the right-of-way and applicable stormwater management and sediment control requirements are addressed. CSXT shall report the results of its consultations in writing to the Surface Transportation Board's (Board) Section of Environmental Analysis (SEA) prior to the onset of salvage operations.
3. To ensure appropriate consideration of the National Pollutant Discharge Elimination System (NPDES) requirements, CSXT shall consult with the USEPA prior to the commencement of any salvage activities and shall comply with the reasonable NPDES requirements.

4. Prior to commencement of any salvage activities, CSXT shall consult with the U.S. Fish and Wildlife Service regarding potential impacts from salvaging activities to Federally listed threatened and endangered species that may occur in the vicinity of the line. CSXT shall report the results of these consultations in writing to the Board's SEA prior to the onset of salvage operations.
5. Prior to commencement of any salvage activities, CSXT shall consult with the National Park Service, Southeast Region, and the Kentucky Department of Parks regarding any impacts on wildlife sanctuaries, refuges, National or state parks or forests. CSXT shall report the results of these consultations in writing to the Board's SEA prior to the onset of salvage operations.
6. CSXT shall retain its interest in and take no steps to alter the historic integrity of all sites, buildings, and structures within the project right-of-way that are eligible for listing or listed in the National Register of Historic Places (generally, 50 years old or older) until the Section 106 process of the National Historic Preservation Act, 16 U.S.C. § 470f, has been completed. CSXT shall report back to SEA regarding any consultations with the Kentucky Heritage Council (State Historic Preservation Officer or SHPO) and any other Section 106 consulting parties. CSXT may not file its consummation notice or initiate any salvage activities related to abandonment until the Section 106 process has been completed and the Board has removed the condition.
7. In the event that any archaeological sites, human remains, funerary items or associated artifacts are discovered during CSXT's salvage activities, CSXT will immediately cease all work and notify SEA, interested Federally recognized tribes, and the SHPO. SEA shall then consult with the SHPO, interested Federally recognized tribes, and CSXT to determine whether any mitigation measures are necessary.

CONCLUSIONS

Based on the information provided from all sources to date, SEA concludes that, as currently proposed, and if the recommended conditions are imposed, abandonment of the line will not significantly affect the quality of the human environment. Therefore, the environmental impact statement process is unnecessary.

Alternatives to the proposed abandonment would include denial (and therefore no change in operations), and discontinuance of service without abandonment. In any of these cases, the existing quality of the human environment and energy consumption should not be affected.

PUBLIC USE

Following abandonment of the rail line, the right-of-way may be suitable for other public use. A request containing the requisite four-part showing for imposition of a public use condition (49 CFR 1152.28) must be filed with the Board and served on the railroad within the time specified in the Federal Register notice.

TRAILS USE

A request for a notice of interim trail use (NITU) is due to the Board, with a copy to the railroad, within 10 days of publication of the notice of exemption in the Federal Register. Nevertheless, the Board will accept late-filed requests as long as it retains jurisdiction to do so in a particular case. This request must comply with the Board's rules for use of rights-of-way as trails (49 CFR 1152.29).

PUBLIC ASSISTANCE

The Board's Office of Public Services (OPS) responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact OPS directly at (202) 565-1592, or mail inquiries to Surface Transportation Board, Office of Public Services, Washington, DC 20423.

COMMENTS

If you wish to file comments regarding this Environmental Assessment, send an **original and two copies** to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Diana Wood, who prepared this Environmental Assessment. Environmental comments may also be filed electronically on the Board's web site, www.stb.dot.gov, by clicking on the "E-FILING" link. **Please refer to Docket No. AB-55 (Sub-No. 667X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this Environmental Assessment, please contact Diana Wood, the environmental contact for this case, by phone at (202) 565-1552, fax at (202) 565-9000, or e-mail at woodd@stb.dot.gov

Date made available to the public: May 16, 2006.

Comment due date: **June 1, 2005.**

By the Board, Victoria Rutson, Chief, Section of Environmental Analysis.

Vernon A. Williams
Secretary

Attachment